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FIRST DIVISION

[G.R. No. 161759, July 02, 2014]

COMMISSIONER OF CUSTOMS, PETITIONER, VS. OILINK INTERNATIONAL CORPORATION, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

This appeal is brought by the Commissioner of Customs to seek the review and reversal of the decision promulgated on September 29, 2003,[1] whereby the Court of Appeals (CA) affirmed the adverse ruling of the Court of Tax Appeals (CTA) declaring the assessment for deficiency taxes and duties against Oilink International Corporation (Oilink) null and void.

Antecedents

The antecedents are summarized in the assailed decision.[2]

On September 15, 1966, Union Refinery Corporation (URC) was established under the *Corporation Code of the Philippines*. In the course of its business undertakings, particularly in the period from 1991 to 1994, URC imported oil products into the country.

On January 11, 1996, Oilink was incorporated for the primary purpose of manufacturing, importing, exporting, buying, selling or dealing in oil and gas, and their refinements and by-products at wholesale and retail of petroleum. URC and Oilink had interlocking directors when Oilink started its business.

In applying for and in expediting the transfer of the operator's name for the Customs Bonded Warehouse then operated by URC, Esther Magleo, the Vice-President and General Manager of URC, sent a letter dated January 15, 1996 to manifest that URC and Oilink had the same Board of Directors and that Oilink was 100% owned by URC.

On March 4, 1998, Oscar Brillo, the District Collector of the Port of Manila, formally demanded that URC pay the taxes and duties on its oil imports that had arrived between January 6, 1991 and November 7, 1995 at the Port of Lucanin in Mariveles, Bataan.

On April 16, 1998, Brillo made another demand letter to URC for the payment of the reduced sum of P289,287,486.60 for the Value-Added Taxes (VAT), special duties and excise taxes for the years 1991-1995.

On April 23, 1998, URC, through its counsel, responded to the demands by seeking the landed computations of the assessments, and challenged the inconsistencies of

the demands.

On November 25, 1998, then Customs Commissioner Pedro C. Mendoza formally directed that URC pay the amount of P119,223,541.71 representing URC's special duties, VAT, and Excise Taxes that it had failed to pay at the time of the release of its 17 oil shipments that had arrived in the Sub-port of Mariveles from January 1, 1991 to September 7, 1995.

On December 21, 1998, Commissioner Mendoza wrote again to require URC to pay deficiency taxes but in the reduced sum of P99,216,580.10.

On December 23, 1998, upon his assumption of office, Customs Commissioner Nelson Tan transmitted another demand letter to URC affirming the assessment of P99,216,580.10 by Commissioner Mendoza.

On January 18, 1999, Magleo, in behalf of URC, replied by letter to Commissioner Tan's affirmance by denying liability, insisting instead that only P28,933,079.20 should be paid by way of compromise.

On March 26, 1999, Commissioner Tan responded by rejecting Magleo's proposal, and directed URC to pay P99,216,580.10.

On May 24, 1999, Manuel Co, URC's President, conveyed to Commissioner Tan URC's willingness to pay only P94,216,580.10, of which the initial amount of P28,264,974.00 would be taken from the collectibles of Oilink from the National Power Corporation, and the balance to be paid in monthly installments over a period of three years to be secured with corresponding post-dated checks and its future available tax credits.

On July 2, 1999, Commissioner Tan made a final demand for the total liability of P138,060,200.49 upon URC and Oilink.

On July 8, 1999, Co requested from Commissioner Tan a complete finding of the facts and law in support of the assessment made in the latter's July 2, 1999 final demand.

Also on July 8, 1999, Oilink formally protested the assessment on the ground that it was not the party liable for the assessed deficiency taxes.

On July 12, 1999, after receiving the July 8, 1999 letter from Co, Commissioner Tan communicated in writing the detailed computation of the tax liability, stressing that the Bureau of Customs (BoC) would not issue any clearance to Oilink unless the amount of P138,060,200.49 demanded as Oilink's tax liability be first paid, and a performance bond be posted by URC/Oilink to secure the payment of any adjustments that would result from the BIR's review of the liabilities for VAT, excise tax, special duties, penalties, etc.

Thus, on July 30, 1999, Oilink appealed to the CTA, seeking the nullification of the assessment for having been issued without authority and with grave abuse of discretion tantamount to lack of jurisdiction because the Government was thereby shifting the imposition from URC to Oilink.

Decision of the CTA

On July 9, 2001, the CTA rendered its decision declaring as null and void the assessment of the Commissioner of Customs, to wit:

> **IN THE LIGHT OF ALL THE FOREGOING**, the petition is hereby GRANTED. The assailed assessment issued by Respondent against
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> herein Petitioner OILINK INTERNATIONAL CORPORATION is hereby declared **NULL and VOID**.
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> SO ORDERED.[3]

The Commissioner of Customs seasonably filed a motion for reconsideration,[4] but the CTA denied the motion for lack of merit.[5]

Judgment of the CA

Aggrieved, the Commissioner of Customs brought a petition for review in the CA upon the following issues, namely: (a) the CTA gravely erred in holding that it had jurisdiction over the subject matter; (b) the CTA gravely erred in holding that Oilink had a cause of action; and (c) the CTA gravely erred in holding that the Commissioner of Customs could not pierce the veil of corporate fiction.

On the issue of the jurisdiction of the CTA, the CA held:

> x x x the case at bar is very much within the purview of the jurisdiction of the Court of Tax Appeals since it is undisputed that what is involved herein is the respondent's liability for payment of money to the Government as evidenced by the demand letters sent by the petitioner. Hence, the Court of Tax Appeals did not err in taking cognizance of the petition for review filed by the respondent.
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> x x x x
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> We find the petitioner's submission untenable. The principle of non-exhaustion of administrative remedy is not an iron-clad rule for there are instances that immediate resort to judicial action may be proper. Verily, a cursory examination of the factual milieu of the instant case indeed reveals that exhaustion of administrative remedy would be unavailing because it was the Commissioner of Customs himself who was demanding from the respondent payment of tax liability. In addition, it may be recalled that a crucial issue in the petition for review filed by the respondent before the CTA is whether or not the doctrine of piercing the veil of corporate fiction validly applies. Indubitably, this is purely a question of law where judicial recourse may certainly be resorted to.[6]